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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Stuart Serkin

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EXAMINER

BUCHANAN, CHRISTOPHER R

ART UNIT

PAPER NUMBER

3627

NOTIFICATION DATE

DELIVERY MODE

05/15/2012

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOMAIL@nixonvan.com
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Office Action Summary	Application No. 09/401,873	Applicant(s) SERKIN ET AL.	
	Examiner CHRISTOPHER BUCHANAN	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1,4,5,7-12 and 14-37 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1,4,5,7-12,14-37 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 5, 7-12, and 14-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over the NASD reference in view of Patterson et al. (US 5,797,002).

Regarding claim 1, NASD discloses an electronic trading system collector facility comprising a computer system having an interface to provide a single, common point of entry for coupling a plurality of order delivery systems and quote entry systems that send orders and quotes to the computer system to the collector facility, a computer program that manages quotes received from the quote entry systems and orders received from the order delivery systems, that manages order routing/execution to provide for all orders received by the interface either a single point delivery of executions to the electronic trading system or routing of orders to external systems in accordance with parameters of the order (FF 14& 15), and that determines if one of the received orders has been executed by the electronic trading system (p. 11 par. 1, details describing order handling), wherein orders can be executed automatically.

NASD does not explicitly show the system to receive a request to cancel execution of one of the received orders, to cancel the order if the order has not been executed, or to deny the request to cancel if the order has already been executed.

Patterson discloses an electronic trading system for consolidating orders from multiple sources (see abstract, col. 6 line 44+), wherein the system can receive a request to cancel execution of one of the received orders from a market participant (col. 7 line 24-30, customer sends request to cancel order). The examiner points out that after receiving a request to cancel an order it would be matter of logic to either cancel the order or deny the cancel request if the order has already been executed, since these are the only two actions possible.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of the NASD reference to receive a request to cancel execution of one of the received orders and to cancel the order if the order has not been executed or to deny the request to cancel if the order has already been executed, as taught by Patterson, to enable market participants to modify placed orders in response to changing market conditions.

Regarding claim 4, managing multiple quotes and orders at multiple price levels is shown by the management of the limit order file in NASD, since a limit order file contains multiple quotes and orders at multiple price levels (FF 18). Regarding claim 5, aggregate or current quote montage is shown by the three methods of display in NASD, including montage and full displays (FF 18). Regarding claims 7-12, the particular features of the management of the order routing/execution, i.e., including time stamping,

assigning priorities, price levels, etc., would be matters of design choice, since the do not affect the nature of functioning of the invention. Regarding claims 14-19, the features of the invention recited in these claims have already been addressed in the rejection above. Regarding claims 20-29, the features of the invention recited in these claims have already been addressed in the rejection above. Regarding claims 30-33, the order manager must either accept or decline the request and the particular criteria required for each option would be a matter of design choice. Regarding claims 34-37, the trading system is an electronic market.

Response to Arguments

3. Applicant's arguments filed March 14, 2011 have been fully considered but they are not persuasive. Applicant argues that the prior art references do not disclose all the recited features of the claimed invention. In particular, applicant argues that the Patterson reference does not disclose an electronic trading system having automatic execution of orders, thus it cannot receive requests to cancel orders in the manner recited in the claims. Also, applicant argues that the NASD reference does not disclose receiving requests to cancel, thus leads to dual liability and teaches away from the claimed invention. Lastly, applicant argues that it would not be logical for the system to receive a cancel order and either cancel the order or not cancel the order.

The examiner disagrees and stands by the rejection. In the examiner's interpretation, Patterson discloses a trading system that includes electronic and non-electronic (floor brokers) components. However, this aspect of Patterson's system is

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not relevant since the NASD reference is being used to disclose a fully electronic trading system which provides automatic execution of orders. The Patterson reference is merely used to show a trading system receiving cancel orders. The examiner points out that the BPAI decision rendered on August 9, 2007 addresses the issue of double liability. The decision states that the system of the NASD reference solves the problem of double liability (p. 18 of decision, analysis of claim 1, see FF 20), which suggests, in the examiner's view, that the system must have the ability to receive cancel orders. Therefore, the NASD reference does not teach away from the claimed invention. Lastly, the examiner points out that a trading system is obligated to follow instructions received from users. If the system receives an instruction to cancel an order it must do one of two things: cancel the order or not cancel the order for some reason. In the examiner's view, this is a basic matter of logic.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER R. BUCHANAN whose telephone number is (571)272-8134. The examiner can normally be reached on Mon.-Fri. 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. R. B./
Examiner, Art Unit 3627

/F. Ryan Zeender/
Supervisory Patent Examiner, Art Unit 3627